

# OFFICE OF THE ATTORNEY GENERAL

86-00005



CHARLES A. GRADDICK  
ATTORNEY GENERAL  
STATE OF ALABAMA

OCT 7 1985

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Honorable William D. Hasty, Jr.  
Municipal Judge  
City of Leeds  
P.O. Box 126  
Leeds, Alabama 35094

Municipalities - Judges -  
Attorneys - Conflict of  
Interest

Neither attorney who serves a  
part-time municipal judge nor  
members of his firm can be  
retained to provide legal  
services for the municipality  
where he is judge.

Dear Judge Hasty:

Your opinion request has been received in the Office of  
the Attorney General. Your request reads, in part, as  
follows:

The undersigned currently is serving as  
a part-time Municipal Judge for the City  
of Leeds, Alabama. My term of office  
expires in October, 1986.

Recently, the City requested that my firm  
assist in the collection of numerous  
ambulance bills that have accumulated  
over the past several years. Prior to  
undertaking to represent the City

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pursuant to this request, I attempted to investigate whether or not a part-time Municipal Judge's law firm could be retained by the municipality which employs him as a Judge. In connection with that investigation, I found the enclosed synopsis of an opinion from the Judicial Inquiry Commission. As you can see, the Commission suggests that the question of appropriate application of Section 12-14-30(d) be addressed to the Attorney General for his opinion.

Based on the above, could this firm represent the City of Leeds in connection with the collection of these accounts even though such representation would not relate to the proceedings in which I would serve as Judge, nor would the accounts be handled by me personally, but by an associate in my firm?

The additional information presented in connection with your request states the following:

#### SYNOPSIS CXIX

Can a part-time municipal judge be retained by the municipality, which employs him as a judge, to give the municipality legal advice or to represent the municipality in court? This question assumes that the legal advice sought does not relate to the proceedings in which the judge has served as judge.

#### OPINION

The Commission is authorized to give its opinion only upon matters concerning the Alabama Canons of Judicial Ethics. However, in order to answer the questions, the Commission must first note

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the provisions of §12-14-39(d), Code of Alabama 1975. "...No judge shall be otherwise employed in any capacity by the municipality during his term of office." This appears to prohibit a municipal judge from being employed as an attorney by the municipality which employs him as a judge. Should this interpretation of §12-14-30(d) be correct, the employment of a municipal judge as an attorney by the municipality which employs him as a judge would be prohibited under Canon 2A. The question of the appropriate application of §12-14-30(d) should be addressed to the Attorney General for his opinion.

Code of Alabama 1975, §12-14-30(d) is clear and unambiguous. It makes no distinction between full-time and part-time judges. Also, in an opinion to Honorable Bobby Claunch, Town of Livingston under date of November 21, 1972 this office held that a city recorder is a municipal officer and is prohibited by Title 37, Section 414, Code of Alabama 1940, Recomp. 1958 (now Code of Alabama 1975, §11-43-12) from being employed in any other capacity by the municipality. Furthermore, in an opinion to Honorable Gene Hamby, Town of Cherokee, under date of October 14, 1983 this office held that Code of Alabama 1975, §11-43-12 prohibits law firm members from serving as municipal attorney and municipal judge respectively, when funds received for service in these positions are placed into law firm funds for the payment of expenses and for distribution to attorneys in the firm.

It is, therefore, the opinion of this office that as a part-time municipal judge you, in view of the provisions of Code of Alabama 1975, §12-14-30(d), cannot be retained to provide legal services for the municipality nor, in view of the provisions of Code of Alabama 1975, §11-43-12 can members of your firm be retained to provide legal services for the municipality which you serve.

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I do hope that this response fully answers your inquiry.  
If, however, we may be of further service, please do not  
hesitate to contact us.

Sincerely yours,

CHARLES A. GRADDICK  
Attorney General

By-

A handwritten signature in cursive script that reads "Carol Jean Smith".

CAROL JEAN SMITH  
Assistant Attorney General

CAG/CJS/cg